



Municipal Services Agency
Robert B. Leonard, Administrator

Interim County Executive
Steven C. Szalay

County of Sacramento

May 6, 2011

Terry Macaulay
Deputy Executive Officer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Re: Comments on the Third Draft of the Delta Stewardship Council's (DSC) Delta Plan

Dear Ms. Macaulay:

Sacramento County appreciates having the opportunity to work in partnership with the DSC and provide input on Draft #3 of the Delta Plan (DP) as it continues to evolve. In several areas of the DP there does not appear to be a marked difference between Draft #2 and Draft #3. County staff continues to evaluate whether our April 15, 2011 comments and recommendations are appropriately reflected in the current draft, particularly related to the following chapters:

- Chapter 4 (Reliable Water Supply) (titled "Manage Water Resources" in Draft #2);
- Chapter 6 (Water Quality);
- Chapter 7 (Risk Reduction);
- Chapter 8 (Delta as a Place); and
- Chapter 9 (Finance).

Sacramento County does however offer the following specific comments on Chapter 3 and Chapter 5.

Chapter 3 (Governance)

The policies and recommendations found in Chapter 3 (Governance) of Draft #3 continue to be especially troubling to the County. Many of the comments and recommendations cited in our April 15, 2011 letter on Draft #2 continue to apply. Specifically, the County remains concerned about the following:

1. The need for greater clarity and certainty about the definition and geographic scope of the "covered actions" provision. The County complements DSC staff for the development of the recently released "Covered Actions FAQ" document. The County suggests the DP include this level of clarity and guidance in Chapter 3.

2. The DP's ambiguity regarding application/interpretation of the "consistency" threshold required as part of the project certification of consistency process, as set forth in Water Code Section 85225.
3. The continued assumption that the Bay Delta Conservation Plan (BDCP) will become part of the DP given that the completion timelines of the two plans differ so greatly and the requisite findings set forth in Water Code Section 85320(b) could ultimately be a difficult test to meet.

Chapter 5 (Ecosystem Restoration)

Sacramento County notes that Chapter 5 is expanded and contains more background information. Therefore, in addition to the Ecosystem Restoration related comments on page 5 of our April 15, 2011 letter, we now offer the additional observations and comments for your consideration and response:

Policy ER P1 (page 65, line 24), which references Policy WR P4 (page 50, lines 11-29) Flow Criteria: This policy states that the SWRCB should develop flow criteria by a date certain. Failure to do so could result in the Delta Council taking one of three actions. The first option seems reasonable in that the Council can simply default to the flow criteria established in 2010 until new criteria are established. The next two options seem overly restrictive especially since the local jurisdictions have no control over whether SWRCB meets the established deadlines. One option states that the council could deny any covered action that would increase the capacity of any water system to store, divert, move or export water from the Delta or Delta Watershed. Another option is that the Board cease issuing water rights permits in the Delta or the Delta watershed. Given the consequences should SWRCB not meet the established deadlines it seems that the policy should be written to require SWRCB to develop flow criteria by a date certain and if they fail to do so the Council should not be able to deny projects initiated by local jurisdictions. The use of "should" in the policy makes it sound weak considering the consequences if SWRCB does not act in a timely manner.

Policy ER P3, Ecological Management Units (page 67, lines 8-16): This policy will require avoidance and mitigation based on a properties **potential** to be used as restoration. This policy will impose a new layer of questionable regulation that is sure to be burdensome to landowners. The County recommends the DSC delete this policy.

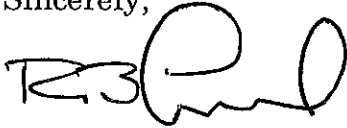
Policy ER P4, Floodplain Protection (page 67, lines 17-30): It appears as if the first bullet contradicts the statement that this policy is a recommendation for actions outside of the Delta by stating that projects within the Delta watershed **must** demonstrate impacts have been considered and avoided or minimized. While the "California Essential Habitat Connectivity Project" is a laudable planning tool it was written without any regard to local land use policy. Guidance documents that are narrow in scope and written absent other considerations should not be used to establish policy that has the potential to impact land use. The first and third bullet points are sufficient to support this policy.

Policy ER P5, Regional Land Use Planning and Impact on Ecosystem Restoration (page 67, lines 31-37): To provide greater certainty and predictability, the term "substantially reduce" must be defined/quantified.

Recommendations ER R1 and ER R2, Prioritization of Restoration Projects (pages 67 and 68): These recommendations should acknowledge that conflicts may arise between existing and future HCPs/NCCPs and the Delta Plan and there should be a mechanism to resolve any conflicts.

In closing, Sacramento County is committed to being a collaborative partner in the preparation of the Delta Plan. Further, as has been our position since the enactment the Sacramento-San Joaquin Delta Reform Act of 2009, Sacramento County is committed to serve in a substantive and proactive role in the crafting of an effective and reasonable Delta Plan which provides implementable land use, water management, ecosystem protection, flood control, and long-term financing policies and recommendations. We look forward to release of forthcoming drafts. Should you have questions about the comments contained herein, please contact Don Thomas, Senior Planner, at (919) 874-5140.

Sincerely,

A handwritten signature in black ink, appearing to read "RBL", followed by a large, stylized loop.

Robert B. Leonard, Administrator
Municipal Services Agency

RBL:DT/smh